



6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R08-OAR-2018-0723; FRL-9991-74-Region 8]**

#### **Approval and Promulgation of Air Quality Implementation Plans; Wyoming; Interstate Transport for the 2008 Ozone National Ambient Air Quality Standards**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a submittal from the State of Wyoming that demonstrates that the Wyoming State Implementation Plan (SIP) meets certain interstate transport requirements of the Clean Air Act (Act or CAA) for the 2008 ozone National Ambient Air Quality Standards (NAAQS). Specifically, the submittal meets the requirement that Wyoming's SIP contain adequate provisions to prohibit emissions in amounts which will interfere with maintenance of the 2008 ozone NAAQS in any other state. The EPA is taking this action pursuant to section 110 of the Clean Air Act (CAA).

**DATES:** This rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2018-0723. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>,

or please contact the person identified in the “For Further Information Contact” section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Adam Clark, Air Program, EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-7104, [clark.adam@epa.gov](mailto:clark.adam@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” means the EPA.

## **I. Background**

On February 3, 2017 (82 FR 9142), the EPA disapproved Wyoming’s February 6, 2014 2008 ozone infrastructure SIP submittal with respect to the CAA section 110(a)(2)(D)(i)(I) requirements regarding emissions from Wyoming that would interfere with maintenance (“prong 2”) of the 2008 ozone NAAQS in any other state. Under CAA section 110(c)(1), this disapproval started a 2-year clock for the EPA to promulgate a federal implementation plan (FIP) unless Wyoming submitted, and the EPA approved, a SIP revision correcting the deficiency. On October 17, 2018, Wyoming submitted a SIP revision to address the EPA’s February 3, 2017 disapproval.

On February 12, 2019 (84 FR 3389), the EPA proposed to approve Wyoming’s October 17, 2018 submittal. An explanation of the CAA requirements, a detailed analysis of the submittal, and the EPA’s reasons for proposing approval were provided in the notice of proposed rulemaking and will not be restated here. The public comment period for the proposed approval ended on March 14, 2019. We did not receive any comments on the proposal.

## **II. Final Action**

For the reasons given in our February 12, 2019 notice, we are approving Wyoming's October 17, 2018 submittal addressing CAA section 110(a)(2)(D)(i)(I), prong 2, for the 2008 ozone NAAQS. With this final approval, the EPA no longer has an obligation under CAA section 110(c)(1) to promulgate a FIP addressing the deficiency identified in the EPA's February 3, 2017 prong 2 disapproval (82 FR 9142).

### **III. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States

prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements.

(See section 307(b)(2).)

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Greenhouse gases, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 2, 2019.

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Debra Thomas,  
Acting Regional Administrator,  
Region 8.

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart ZZ – Wyoming**

2. Section 52.2620 is amended by adding to the table in paragraph (e), in numerical order, an entry for “(33) XXXIII” to read as follows:

**§52.2620 Identification of plan.**

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(e) \* \* \*

Rule No.	Rule title	State effective date	EPA Effective date	Final rule citation/ date	Comments
(33) XXXIII	Interstate transport SIP for Section 110(a)(2)(D)(i)(I) prong 2 for the 2008 Ozone NAAQS	August 30, 2018	[Insert date 30 days after date of publication in the <b>Federal Register</b> ]	[Insert <b>Federal Register</b> citation] [Insert <b>Federal Register</b> date of publication]	

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